



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

NOV 17 1995

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Prentice-Hall Corporation Systems, Inc.
Registered Agent for
The Doe Run Resources Corporation
15 Columbus Circle
New York, NY 10023-7773

Dear Sir or Madam:

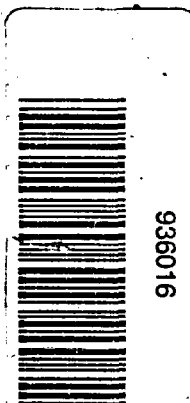
This is to invite The Doe Run Resources Corporation to enter into negotiations with the U.S. Environmental Protection Agency (EPA) about cleanup of lead, cadmium, and other hazardous substances in soil at some residential areas in Ottawa County, Oklahoma. The residential areas are in an area which EPA calls the Tar Creek Superfund Site. EPA believes that the lead, cadmium, and other hazardous substances may pose a health threat--especially to children.

EPA is asking you to enter into negotiations because we believe you may be responsible for the cleanup under the Superfund law. The enclosed notice explains that responsibility more clearly.

Please call EPA Senior Attorney James E. Costello at (214) 665-8045 within 15 days of your receipt of this letter and let him know whether you will negotiate. Also, please call Mr. Costello by November 28, 1995, and tell him whether you will attend a settlement meeting that has been set for December 7, 1995, at 9:00 a.m. at EPA Region 6 offices in Dallas. Please make any calls to Mr. Costello on any federal government work day from 8:00 a.m. to 4:30 p.m.

Please note that the enclosed notice requires you to reply in writing with a good-faith offer within 60 days of your receipt of this letter. The notice explains what EPA means by a good-faith offer.

Please read the enclosed notice carefully. Note that the notice includes a demand for payment; this allows EPA to preserve



certain legal rights. If you have any questions please call Mr. Costello.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Myron O. Knudson". The signature is fluid and cursive, with the first name "Myron" and last name "Knudson" clearly distinguishable.

Myron O. Knudson, P.E.
Director
Superfund Division

Enclosures

cc: Mark Coleman, Executive Director
Oklahoma Department of Environmental Quality

Monty Elder, Environmental Specialist Supervisor
Oklahoma Department of Environmental Quality

Grace Goodeagle
Quapaw Tribe of Oklahoma

Gary D. Uphoff, Principal
Environmental Management Services Company

Walter Nowotny, Esq.
Counsel for The Doe Run Resources Corporation

**SPECIAL NOTICE FOR
REMEDIAL INVESTIGATION, FEASIBILITY STUDY, AND REMEDIAL DESIGN
FOR RESIDENTIAL AREAS AT THE TAR CREEK SUPERFUND SITE
OTTAWA COUNTY, OKLAHOMA**

This notice is from the U.S. Environmental Protection Agency (EPA) to The Doe Run Resources Corporation. When we say "you" in this notice we mean The Doe Run Resources Corporation. This notice says that you may be liable for the cleanup of hazardous levels of lead, cadmium, and other hazardous substances in some residential areas in Ottawa County, Oklahoma. The residential areas in question are the residential areas within the area which EPA calls the Tar Creek Superfund Site (please see the enclosed map which describes the approximate boundaries of the Site). When we say "the Site" in this notice we mean the Tar Creek Superfund Site. This notice does five things (all of these five things are explained in more detail in the parts of this letter which are marked with Roman numerals I through V):

1. First, this tells you, that you may be responsible for the cleanup of the lead, cadmium, and other hazardous substances at the Site. The law known as the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) says that persons are responsible for cleanup of hazardous substances in certain cases. CERCLA is also called Superfund.
2. Second, this notice asks you to pay EPA for its Site costs.
3. Third, this tells you that EPA will use special notice procedures when it works with you. As part of these procedures, EPA will not take some types of actions at the Site for 60 days from the day you get this notice. During this 60 days, EPA invites you to settle some of EPA's claims. EPA may extend this 60-day time for 30 more days if EPA gets a good-faith offer from you in 60 days from the day you get this letter.
4. Fourth, this notice asks you to send EPA a good-faith offer within 60 days from the day you get this notice. Before EPA can begin the cleanup of the lead, cadmium, and other hazardous substances, EPA needs certain things. These things include (1) a Remedial Investigation and Feasibility Study (RI/FS), and (2) a Remedial Design (RD) for the cleanup of lead, cadmium, and other hazardous substances at the residential areas of the Site (the approximate boundaries of the Site are described on the enclosed map). The National Oil and Hazardous Substances Pollution Contingency Plan (NCP) is EPA's rules for cleaning up hazardous substances and oil spills. The NCP tells what is required for a RI/FS and RD. The NCP is found in Part 300

of Title 40 of the Code of Federal Regulations (CFR). The NCP describes a RI/FS at Section 300.430 of Part 300. The NCP describes a RD at Section 300.435 of Part 300. EPA is asking you to settle part of EPA's claim by paying for or doing a RI/FS and a RD for the residential areas of the Site. Your good-faith offer should say that you are willing and able to pay for or do a RI/FS and a RD. Your good-faith offer should also say that you are willing to pay for EPA's past and future Site costs. All of the things that you must put in your good-faith offer are described below in Section IV (GOOD-FAITH OFFER).

5. Fifth, this notice points out that it would help you and EPA if you would talk to other persons who may be responsible for the cleanup. A list of persons who EPA believes may be responsible is enclosed. It would be easier for you and for EPA if you would form a group with other persons who may be responsible. Groups of responsible persons should form a steering committee to represent the group. The purpose of the steering committee is to make settlement faster and easier for all.

1. NOTICE THAT YOU MAY BE LIABLE

CERCLA says that four types of persons are liable for cleaning up (or paying EPA to clean up) hazardous substances that have been released:

1. Persons who now own the place where the hazardous substance was released;
2. Persons who once owned or operated the place where the hazardous substance has been released during the time when the hazardous substance was disposed of;
3. Persons who arranged for disposal or treatment of hazardous substances at the place where the hazardous substance has been released; or
4. Persons who selected the place where the hazardous substance has been released as a disposal site and transported the hazardous substances to that place.

You may want to read the section of the CERCLA law which tells which persons are liable for the cost of cleaning up hazardous substances. CERCLA can be found in Title 42 of the United States Code (U.S.C.) in Sections 9601 through 9675. The part of CERCLA which tells about these responsible parties can be found at Section 9607. Definitions of terms used in CERCLA can be found in Section 9601. Section 9607 is sometimes called

Section 107--the section number which it has in the act of Congress.

CERCLA also says that EPA may order responsible persons to take response actions which EPA believes are needed to protect human health, welfare, or the environment. For example, EPA may issue an order that requires a responsible person to do a RI/FS, or a RD. If a responsible person does not comply with an EPA order, the person may be fined up to \$25,000 per day. If a responsible person does not comply with an EPA order, that person may also be liable for three times the amount of money which EPA spends on the response action.

The part of CERCLA which tells about orders which EPA may issue can be found at Section 9606 of Title 42 of the United States Code. Section 9606 gives authority to the President, but the President has delegated that authority to EPA. Section 9606 is sometimes referred to as Section 106--the section number which it has in the act of Congress.

EPA has information which shows that at one time you owned or operated part of the Site. During the time that you owned or operated part of the Site, one or both of the following things took place: (1) millions of tons of tailings were disposed of at the part of the Site which you owned or operated; or (2) you arranged for the disposal of millions of tons of tailings somewhere on the Site. The tailings in question contained lead, cadmium, and other hazardous substances.

You disposed of millions of tons of tailings at the Site. Tailings have been used as fill, as driveway or roadbed material, and for other purposes for which gravel is used. Some of your tailings may have been hauled to the residential areas in question for use as gravel. If that is the case, you may be responsible for the cleanup of lead, cadmium, and other hazardous substances in these residential areas, and your responsibility would include paying for or doing the RI/FS and RD.

EPA believes that it may one day find more specific evidence that your tailings were hauled to the residential areas which are the subject of the RI/FS and RD. EPA invites you to take stock of the evidence, and to enter into negotiations toward a settlement which may be in your best interests. As we said above, if you choose not to settle with EPA, and if you are found to be a responsible party, EPA may take civil administrative action.

2. REQUEST FOR PAYMENT

Some parts of the Site were cleaned up under a remedy selected in a 1984 EPA document called a Record of Decision (ROD) for the Site (EPA will call these cleaned-up parts of the Site

"Operable Unit 1" in the rest of this letter). At the time that the 1984 ROD was written, EPA believed that the remedy in the ROD would protect human health and the environment at Operable Unit 1 and at the whole Site.

In April 1994, EPA completed its Five-Year Review of Operable Unit 1. The Five Year Review was done to make sure that human health and the environment at the whole Site were being protected by the action taken as Operable Unit 1. New information from the 1994 Five-Year Review led EPA to believe that more study of the effect of Site mining wastes on human health and the environment were needed. Part of the new information showed that 35% of Indian children from the area had high levels of lead in their blood.

The information gathered during the 1994 Five-Year Review included information which was previously unknown to EPA. Based upon this new 1994 information, beginning on May 1, 1994, EPA started new investigations at the Site. Based upon the results of the new investigations, EPA has taken some response actions at part of the Site to clean up lead and cadmium.

The costs which EPA has incurred since May 1, 1994, are in keeping with CERCLA. Those EPA costs include indirect costs, costs related to several Site inspections, investigation costs, enforcement costs, and some cleanup costs. Those EPA costs for which EPA has not been paid are \$480,090.11 as of May 1, 1995 for this Site. Please pay EPA \$480,090.11. Please also pay EPA any and all future costs which EPA may incur in connection with the Site. Please also pay EPA any and all interest authorized to be recovered under CERCLA or under any other provisions of law. These EPA demands for payment are made under 42 U.S.C. Subsection 9607(a).

Please make your payment for \$480,090.11 by certified check made payable to "EPA Hazardous Substance Superfund," and referencing CERCLA Site ID Number BE. Send the certified check to:

EPA-Superfund, Tar Creek Superfund Site BE
Superfund Accounting
P.O. Box 360582 M
Pittsburgh, PA 15251
Attn: Collection Officer for Superfund

Send a copy of the check to Noel Bennett at the address shown below.

Noel Bennett
Remedial Project Manager (6SF-AO)
U.S. Environmental Protection Agency
1445 Ross Avenue
Dallas, Texas 75202-2733

3. NEGOTIATION PERIOD

Under CERCLA, EPA may use special notice procedures when EPA believes these procedures would help EPA reach an agreement with potentially responsible parties (PRPs). The special notice procedures are described in Title 42 of the United States Code at Subsection 9622(e). The powers given to the President by that subsection have been delegated to EPA. Subsection 9622(e) is sometimes called Subsection 122(e)--the section number which it has in the act of Congress.

EPA has decided that special notice procedures may help EPA and the PRPs reach a settlement for this Site. As part of the special notice procedures, EPA will not take some types of actions at the Site for 60 days from the day you get this notice. During this 60 days, EPA invites you to settle some of EPA's claims. EPA will extend this 60-day time for 30 more days if EPA gets a good-faith offer from you in 60 days from the day you receive this notice. The things which you must put in a good-faith offer are described in Section IV (GOOD-FAITH OFFER) of this letter.

If you and EPA reach settlement within the 90-day negotiation period (it is a 90-day period because it includes the first 60-day period plus the 30-day period which EPA may add if you submit a good-faith offer), the settlement will be written as an EPA Administrative Order on Consent (AOC). The AOC would be issued by the Superfund Division Director, EPA Region 6.

To help negotiations get started, a draft AOC, written just for the Site, is enclosed. The AOC includes a Statement of Work (SOW). The SOW describes the work which EPA would like done. The work includes a RI/FS and a RD for the residential areas of the Site.

To speed up EPA's review of your good-faith offer, please revise the draft AOC or SOW. Revise the draft AOC or SOW by lining through the parts which you want to take out, and by adding new text in a way which makes the new text easy for EPA to see. If you use Wordperfect 5.1 (which is used by EPA), or other word processing equipment, please send us a redline/strikeout version. You can get a computer disk with copies of the draft AOC and the draft SOW by calling EPA Senior Attorney James E. Costello at the number listed below.

4. GOOD-FAITH OFFER

Copies of the draft AOC and the draft SOW for the Site are enclosed. These copies are to help you make a good-faith offer to do the RI/FS and the RD.

In order for your offer to be a good-faith offer, it must be in writing and it must have these things:

1. An unconditional statement that you are willing to conduct or pay for the RI/FS and the RD. Your statement must be in keeping with EPA's draft AOC and SOW. Your statement must be a good basis for more negotiations.
2. A paragraph-by-paragraph response to EPA's SOW and AOC (a redline/strikeout draft AOC and draft SOW will be all right). Also, please tell which changes are major issues for you.
3. Proof that you (or the party you will hire to do the work) have the technical skills to do the RI/FS and the RD. If you will hire another party please tell us who, or tell us how you will pick that party.
4. A written statement that you are willing to pay EPA for response costs previously paid at the Site and to be paid by EPA in overseeing the conduct of the RI/FS and the RD.
5. Proof that you can pay for the RI/FS and the RD (an audited annual report may be okay).
6. A statement that you are willing to begin work on the RI/FS and the RD in keeping with the schedule set in the enclosed draft AOC and SOW.
7. A general work plan which describes how and when you will do the major parts of the RI/FS and RD described in the draft AOC and SOW.
8. The name, address, and phone number of the party or steering committee representative who will represent you and any other PRPs in negotiations, if you will use a representative.

To save time and expense, please use your first good-faith offer to make all the changes which you would like to see in the AOC and SOW. EPA may not make changes which you ask for at a later date.

If EPA decides that a good-faith offer has not been submitted within 60 days from the day you get this letter, EPA may end the negotiation period, and EPA may then begin response actions or enforcement actions.

5. PRP ORGANIZATION

If EPA does the RI/FS and RD (or any other action for the Site) you and other PRPs may be liable for EPA's costs plus interest. It would help speed up negotiations if you and other PRPs would meet and form a steering committee. A list of other PRPs is enclosed. The steering committee should represent all the PRPs. If you cannot form a steering committee, it would be helpful if each PRP would select one person to represent it. Your good-faith offer may be made by you alone or through a steering committee.

6. WHERE TO SEND YOUR GOOD-FAITH OFFER AND WHO TO CALL AT EPA

Please call Mr. Costello at EPA within 15 days of your receipt of this notice. Please let Mr. Costello know whether you will be a part of negotiations about the RI/FS and RD for the Site. Please send your good-faith offer to Mr. Costello at the address listed below. As we said above, you have 60 days from your receipt of this notice to send EPA a written good-faith offer. You may respond alone or through a steering committee.

If EPA does not receive a good-faith offer from you within 60 days from your receipt of this notice, EPA will assume that you do not wish to negotiate. EPA may then take response or enforcement actions as explained above.

Your response to this notice should be sent to:

James E. Costello
Senior Attorney (6SF-DL)
U.S. Environmental Protection Agency Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733
(214) 655-8045
FAX (214) 665-7330

The discussions of fact or law in this notice are meant to help you understand CERCLA and EPA's actions at the Site. The discussions of fact and law are not final EPA positions on any matter discussed in this notice.

If you or your attorney have any questions about this notice, please contact Mr. Costello.

NOV 17 1995

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Myron O. Knudson, P.E.
Director
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Enclosures

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Environmental Management Services Company

Walter Nowotny, Esq.
Counsel for The Doe Run Resources Corporation

6SF-DL:JCOSTELLO/NBennett/arr:TARRIFS4.SN3

6SF-AO
BENNETT

11-7-95

6SF-AO
STENGER

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6SF-DL
PEYCKE

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11:50A

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BUZZELL

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PHILLIPS

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